

Procedure No. 5-09

FINDINGS OF ILLEGAL ACTS, NONCOMPLIANCE, OR ABUSE

Background

When auditors conclude, based on evidence obtained, that an illegal act, a noncompliance or abuse either has occurred or is likely to have occurred, they should promptly report relevant information to the Supervising Auditor and the City Auditor. An illegal act is a violation of a law and or a regulation. A noncompliance is a violation of a provision of a contracts or grant agreement. Abuse occurs when the conduct of a government organization, program, activity, or function falls far short of societal expectations for prudent behavior.

Whether a particular act is, in fact, illegal may have to await final determination by a court of law. Thus, when auditors disclose matters that have led them to conclude that an illegal act is likely to have occurred, they should take care not to imply that they have made a determination of illegality.

Auditors should exercise due professional care in pursuing indications of possible illegal acts so as not to interfere with potential investigations, legal proceedings, or both. Under some circumstances, laws, regulations, or policies require auditors to report indications of certain types of illegal acts to law enforcement or investigatory authorities before extending audit steps and procedures. Auditors may also be required to withdraw from or defer further work on the audit or a portion of the audit in order not to interfere with an investigation.

Procedure

Audit Staff	1. Report promptly any finding of illegal acts, noncompliance or abuse to the Supervising Auditor and the City Auditor.
Audit Staff, Supervising Auditor and the City Auditor	2. Determine whether additional work needs to be performed or whether audit procedures should be suspended as a result of the finding. 3. Determine whether a referral should be made to the City Attorney and/or the Police Department. Consult with the City Attorney and/or the Police Department before reporting about the illegal acts.
Audit Staff	4. Prepare all necessary memoranda to the auditee management, the City Attorney and/or the Police Department. Include in the report significant instances of noncompliance and all significant instances of abuse that were found during or in connection with the audit, subject to the consultation with the City Attorney and the Police Department. 5. When auditors detect nonsignificant instances of noncompliance, they should communicate them to the auditee in writing (See example of memorandum in 5-09-1). The auditors should refer to the management letter in the audit report. Auditors should document in their workpapers all communications to the auditee about noncompliance.
City Auditor	6. Review and sign memoranda to the auditee management, the City Attorney and/or the Police Department.

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